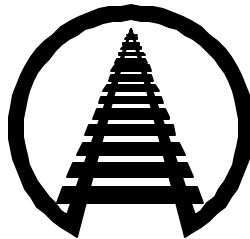


STATEMENT OF
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ASSOCIATION OF AMERICAN RAILROADS



BEFORE THE
SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

HEARING ON RAILROAD SECURITY AND
S. 1530: RAILROAD ADVANCEMENT AND INFRASTRUCTURE LAW
OF THE 21ST CENTURY

NOVEMBER 1, 2001

On behalf of our members, thank you for the opportunity to meet with you today to update this committee on issues related to railroad security and to discuss the Association of American Railroads' (AAR) views on S. 1530, The Railroad Advancement and Infrastructure Law of the 21st Century (RAIL-21). AAR member railroads account for the vast majority of rail mileage, employees, ton-miles, and revenue in Canada, Mexico, and the United States.

Rail Industry Security Actions

To begin, I would like to update you on what the U.S. freight railroad industry is doing to safeguard the nation's rail freight transport system in response to the September 11 terrorist assault, and suggest tangible ways that this committee and others in Congress could assist in this critical effort.

Railroads are indispensable to the economic and physical well-being of our nation — they transport more than 40 percent of U.S. intercity freight, including approximately two-thirds of coal used by coal-fired power plants, some 70 percent of motor vehicles, huge amounts of grain and chemicals, and countless other commodities. In addition, the Department of Defense relies on freight railroads to move ordnance and supplies — in times of peace and in times of war. The Military Traffic Management Command (MTMC) has designated 30,000 miles of rail corridors — known as the Strategic Rail Corridor Network (STRACNET) — as essential to the national defense. The railroads maintain a close working relationship with the military to determine immediate and ongoing military traffic requirements and to identify capacity, security, and equipment needs of the industry to meet military demand.

Railroads are proud of the success they have achieved since September 11 in keeping our nation's vital rail-transport link open. Nevertheless, we know that terrorist actions against freight railroads could result in significant economic and military disruptions, and possibly even create serious public health risks.

As I discussed in testimony to this committee on October 2, in the immediate aftermath of the attacks on September 11, railroads tightened security and intensified inspections across their systems. Since then, the rail industry has implemented numerous security enhancements. The AAR now operates a 24-hour command center linked to federal national security personnel and the railroads' operations centers. This linkage dramatically increases our access to intelligence information and our ability to share that information on a real-time basis with the railroads. I cannot overstate the importance of timely and accurate intelligence information to allow railroads to take appropriate action based on the level of threat.

Railroads have delineated graduated security procedures that can be implemented based upon the current level of threat, and railroad police are guarding certain critical infrastructure on a 24-hour basis. The industry has increased infrastructure protection through measures such as video surveillance and computer card access systems, and has restricted access to sensitive Web-based information systems. Certain shipments are now subject to increased surveillance and rerouting. And the industry is continuing to provide emergency response training to railroads, fire and police departments, emergency response officials, and other military and government officials.

Further, as detailed in my earlier testimony, the railroad industry established five Critical Action Teams to assess both short-term and long-term security needs in light of

the increased threats to our nation. These teams are: information technology and communications, physical infrastructure, operational security, hazardous materials transport, and military preparedness. In consultation with outside counter-terrorism experts retained by the rail industry, these teams are making significant progress in evaluating threats to the rail system and in devising appropriate countermeasures.

Railroad Security Fund

The work of the Critical Action Teams and the analyses and actions taken to date will form the basis for additional measures the rail industry believes to be necessary to enhance the security of our nation's freight rail network. Indeed, while the rail industry has already implemented a number of steps to enhance security, the enormity of the challenge we face — and the substantial costs that will be incurred to continue operating the railroads safely — are now becoming clear.

In that regard, it has become evident that, to ensure that the American people are protected and that the nation's economic and military framework continues to function, a freight rail security fund should be established immediately. This fund would reimburse railroads for certain expenditures already incurred and those necessary in the future to help meet the security needs identified in the vulnerability assessment and security needs analysis we are conducting in cooperation with federal authorities. These costs could include rerouting and special handling of certain hazardous materials; security and redundancy for critical communications and train control systems; investment in physical hardening of critical infrastructure; increased surveillance by security personnel; and research and development to support security needs.

Insurance and Liability Relief

Through no fault of its own, the railroad industry today is faced with an insurance crisis. As I noted on October 2, insurers have notified railroads that coverage of terrorist acts will soon be eliminated completely or drastically reduced, and premiums for remaining coverage will rise substantially.

Certain products that railroads carry are vital to personal health and our nation's economy but have the potential to be misused. Because of their importance in legitimate end uses, however, the transportation of these products cannot simply be halted without causing enormous harm. Moreover, as common carriers, railroads are required by statute to transport commodities tendered to them, including commodities classified as hazardous materials (a small percentage of which if subject to a terrorist incident have the potential for serious consequences). Thus, railroads cannot limit potential risks in the same way that firms in other industries can limit their risks. Yet without adequate insurance, the ability of railroads to continue to haul these products efficiently and cost effectively would be severely threatened.

Railroads recognize their own responsibility to obtain and pay for appropriate insurance coverage. However, because the circumstances facing railroads today are so extraordinary and because the potential costs associated with a major terrorist act could be so extreme, it is logical and appropriate for the federal government to assume the role of insurer of last resort. Consistent with the assistance provided airlines, the federal government should address the railroad insurance crisis by limiting the rail industry's liability for acts of terrorism. Railroads also endorse Congressional efforts to make insurance for acts of terrorism available on reasonable commercial terms.

It is worth emphasizing that the rail industry takes very seriously its responsibility to both continue to provide the critical transportation services our nation depends on, and to take actions necessary to safeguard the security of its employees, the communities it serves, and our nation.

RRIF Program Expansion

The AAR appreciates that RAIL-21 could help freight railroads make additional investments in service-enhancing infrastructure projects, while also providing critical funding to support passenger railroading in this country.

For example, the AAR is pleased that S. 1530, like H.R. 2950 (on which I testified to the House Committee on Transportation and Infrastructure on October 2), greatly increases — from \$3.5 billion to \$35 billion — the amount of low-interest loans and loan guarantees available to the railroad industry through the Railroad Rehabilitation and Improvement Financing (RRIF) program. This major expansion could help both short line and Class I railroads to continue to provide safe and efficient transportation service that enhances our nation's economic health and global competitiveness.

The AAR also strongly appreciates efforts in S. 1530 to countermand the existing regulatory barriers pertaining to RRIF program eligibility, particularly the lender of last resort provisions and the collateral requirements. Eliminating these excessive regulatory requirements will make the RRIF program more attractive to railroads of all sizes.

Short Line Railroad Capital Grant Program

Operating nearly 50,000 miles and employing more than 23,000 workers, the more than 550 non-Class I U.S. freight railroads play a vital role in our nation's rail freight transportation system — especially by connecting rural areas to the national rail

network. However, the infrastructure of many of these smaller, lower density railroads cannot support the operation of the rapidly-increasing number of heavier rail cars that are required for railroads to offer competitive, economical service to their customers. Absent outside sources of funding, many of these smaller railroads will be unable to upgrade their lines. Eventually, many of these lines could be abandoned. If this happened, countless communities would be cut off from the national rail network, resulting in serious economic displacement, reduced transportation options for shippers, and significant harm to rural roads as traffic previously moving by rail was diverted to truck.

To this end, the AAR strongly supports the efforts of RAIL-21 to provide \$350 million annually for three years to help smaller railroads rehabilitate, preserve, or improve their infrastructure; meet the challenge of “286,000-pound” cars; and aid in the economic support of rural America.

High-Speed Rail

RAIL-21 reauthorizes the Swift Rail Development Act and provides matching grants to assist in the development of high-speed rail in selected corridors throughout the country. The development of high-speed rail could help alleviate highway and airport congestion, decrease dependence on foreign oil, reduce pollution, and reduce injuries and fatalities associated with automobile and truck transportation. Freight railroads recognize these public benefits, and have long expressed their willingness to cooperate in good faith in the extension and advancement of high-speed passenger service.

Most proposals to expand passenger railroad service assume the ability to use existing freight railroad rights-of-way for that purpose. However, proponents of passenger rail of all types must understand that to arbitrarily superimpose passenger

operations on the freight rail network without regard to its effects on freight railroad operations would compromise safety and hamstring the efficiency and financial health of the nation's freight delivery system. The goals of reducing pollution and highway congestion, and enhancing safety and energy efficiency, by expanding rail passenger service will not be realized if passenger trains interfere with freight service and force thousands of truckloads of freight back onto the highways. Therefore, public policy requires that passenger service not degrade the ability of freight railroads to serve their customers.

Moreover, it must be acknowledged that the expansion of high-speed passenger rail service throughout the United States presents genuine challenges. Among other things, in order to operate safely and effectively, high-speed passenger rail operations require the construction of separate, dedicated tracks and "sealed" corridors. To seal a corridor, grade crossings must be eliminated (either through closure or through the construction of highway underpasses or overpasses). These are exceedingly expensive undertakings and will require firm, continued commitments by the appropriate authorities if high-speed rail projects are to succeed.

Further, the AAR believes that sponsors of high-speed rail projects that desire to use existing freight railroad corridors should have to negotiate an arms-length, written agreement with the owning freight railroad before bonds to finance the project can be issued or other means of financing can be launched. The written agreement should cover terms of use of the freight corridor, including compensation for such use and liability issues, as well as assurances regarding the adequacy of infrastructure capacity to accommodate both existing and future freight and passenger operations.

Extension of Amtrak's Authorization

Throughout its history, Amtrak has faced recurring questions concerning its funding needs and the proper role it should play in our nation's transportation system. In a May 24, 2001, speech to the National Press Club, Amtrak President George Warrington asked, "If you're a public service provider, you go where the community need is; if you're a business, you go where the money is. But if you're Amtrak, which way do you go?" Mr. Warrington suggested that Congress should address several critical policy questions, among them, "What should the national intercity rail system be? ... Should the system cover the costs of public services that don't pay for themselves? ... And how much capital will be provided to support this system, and where will it come from?" He summed up Amtrak's dilemma when he told *The Wall Street Journal* earlier this year that "We tend to live hand to mouth, year to year, and it's no way to run a railroad."

I respectfully suggest that Mr. Warrington is correct when he says that this committee and the Congress need to undertake a reflective, comprehensive debate on the role that Amtrak should play as part of our nation's intercity transportation system. When Amtrak's mission is clearly defined, Congress must be willing to commit resources commensurate with that role. For their part, freight railroads will continue to work cooperatively with Amtrak to help it fulfill its mission.

Finally, although it is not currently part of RAIL-21, the AAR supports efforts to provide financial assistance for local rail line relocation projects, as found in S. 948, the Community Rail Line Relocation Assistance Act of 2001. Relocation of existing rail lines in some areas may provide public benefits by improving the flow of motor vehicle traffic, enhancing safety, and contributing to economic development.

Conclusion

Our privately-owned freight railroad system is a tremendous national asset, essential to our nation's economy and defense. U.S. freight railroads move more freight, more efficiently, and at lower rates than anywhere else in the world. Indeed, our nation's global economic supremacy is derived in large part from transportation resources — including freight railroads — that are second to none.

Going forward, we must ensure that railroads remain capable of handling the increasing demands placed upon them. Railroads are committed to doing their part to enhance security, advance safety, improve service, maintain their infrastructure, and offer their customers reasonable rates. If railroads are to continue to provide safe, efficient, and cost-effective transportation service that enhances our nation's economic competitiveness and supports our national defense, the industry's massive capital needs must be met. Legislative changes such as railroad retirement reform (S. 697) and repeal of the discriminatory 4.3 cents per gallon deficit reduction fuel tax (part of S. 661) would aid greatly in this effort. So too would the creation of a rail security fund and the enactment of provisions of RAIL-21, including funding for short line railroads and the expansion of the RRIF program.

The rail industry looks forward to continuing to work with you to address these critical issues.